



**MINUTES OF THE CITY COUNCIL MEETING
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, April 1, 2003, 8:00 p.m.**

MEETING

The Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Ward.

ROLL CALL

Present: COUNCIL MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR Cooper
Absent: None

PRESENTATION: Business Recognition Award

The City of Hayward presented the Business Recognition Award for April 2003 to Guava Technologies, Inc. Guava Technologies is part of the Bio Technology/Research Industry. Guava has developed tools to help researchers analyze cells more efficiently. Philippe Goix founded the company in 1998 and moved to Hayward in January 2002. Guava is located in the Mt. Eden Business Park at 25801 Industrial Boulevard. From 2001, Guava's first year of sales to 2002 more than doubled. Designed to accelerate cell based discovery, the Guava PCA and Guava PCA-96 systems offer turnkey operation and integrated system solutions. Guava's customers include pharmaceutical companies, biotech companies, medical research institutions, universities and government agencies. Chief Technology Officer and Founder, Philippe Goix accepted the award on behalf of Guava Technologies and thanked Council for this honor.

PUBLIC COMMENTS

Jason Moreno commented on the recent mid-year budget work session.

Barbara Swarr commented on recreational facilities available in the downtown residential developments.

Bill Quirk submitted a statement requesting information and questioned the categorization of campaign expenses under the adopted ordinance related to Proposition 34, and when campaign expenditures start counting toward the limit.

CONSENT

1. Approval of Minutes of the City Council Meeting of March 25, 2003

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It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to approve the minutes of the City Council Meeting of March 25, 2003.

2. Adoption of Administrative Citations Ordinance

Staff report submitted by City Clerk Reyes, dated April 1, 2003, was filed.

It was moved by Council Member Ward, seconded by Council Member Henson, and unanimously carried to adopt the following:

Ordinance 03-04, "Ordinance Amending Chapter 1, Article 3 of the Hayward Municipal Code Relating to Administrative Citations"

HEARINGS

3. Revisions to the Residential Rental Inspection Program

Staff report submitted by Director of Community and Economic Development Ehrenthal, dated April 1, 2003, was filed.

Director of Community and Economic Development Ehrenthal presented the recommendations for this program including directing staff to increase fees and penalties that were established in 1993. She explained the process of the working group, the focus areas, and the reasons for an additional inspector. She noted that rental advocates have asked that staff review the program annually and would accept this proposal with the continued assistance of the working group. She recommended the introduction of the revised ordinance. She then noted that this project is categorically exempt from CEQA review. She responded to Council questions related to inspections and fees. She noted that this is not an effort to generate revenue for the City of Hayward or to make the program self-sufficient but to safeguard the renters throughout the City.

Discussion ensued related to trade-offs to make this program work. It was suggested that the notice to tenants would be translated into various languages as necessary.

Council Member Ward spoke about HUD inspections for Section 8 housing units. He reiterated previously asked questions related to fees paid and the proposal for self-inspections. He strongly spoke in opposition to any retribution on the part of landlords to tenants.

Council Member Rodriguez commented on the lack of communication with tenants and asked if tenants would be protected from rental increases as a result of the increase in costs for this program.

Director of Community and Economic Development Ehrenthal discussed the market and how housing stock and the economy would affect it more than this fee could.



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In response to a question from Council Member Jimenez, staff noted that the work of the focus group was incorporated in the final draft.

Mayor Cooper opened the public hearing at 8:47 p.m.

Art Kealy, a member of Congregations Organizing for Renewal (COR), thanked the staff and Council for efforts toward decent and affordable housing. He said they would like to see multiple units inspected after a complaint for a better perspective on the conditions. He also asked for an appraisal of the ordinance after a year to review its effectiveness.

Tim May, Rental Housing Owners Association (RHO), formally requested that this item be pulled from the agenda. He then submitted a statement that contained five reasons asking for further discussion on the issue by the landlords. He stated that the modifications proposed were discriminatory and in conflict with statutes and noted that the dissimilar treatment was unfair and infringed on rights of property owners when the fees were based on census tract locations and not applied to every property owner.

Council Member Rodriquez asked if the Association monitors its members.

Mr. May stated that RHO is not a regulatory body, but does provide a trained mediator for tenants.

Council Member Ward commented on the self-certification proposal that was not accepted by the RHO. He asked Mr. May for his comments.

Mr. May noted that cost is an issue as well as a level of liability that could create problems in the certification process. He said they are looking for a plan that does not penalize responsible rental property owners, a plan that does not arbitrarily choose census tracts where business owners are treated differently because they are in a different census tract. The City already knows who the landlords are who treat their tenants unfairly; the City should not reward them. The bad landlords should be the ones paying for this project. He said he supports an annual review if the City has evaluated it with data the City has for the past twelve years. He noted that perhaps good landlords might be rewarded instead of punished by this law. RHO members represent about 20% of the total rental units in the City of Hayward.

Roberto Carranza, a member of St. Joachim Parish and COR, spoke in Spanish in support of the ordinance.

Bill Quirk asked how the census tract was determined and asked what the pass and fail rates were in the areas. He also asked about fee for the owners outside the focus areas. He suggested 13,000

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rental homes might already bring in enough money. He also suggested failing the inspection might vary in standards.

Barbara Swarr suggested that everyone in the City of Hayward is paying for bad landlords because the end result affects the use of services such as police and fire, as well as inspections. She suggested not penalizing the good landlords, but addressing the bad landlords more often since they are the cause of the problem and cost the City more money.

Francisco Abrantes stated that mold in properties is due to windows and doors being kept closed due to crime.

Maria Reyes, a member of COR, expressed her concerns in Spanish regarding tenants in the City of Hayward. She said they would be having meetings to educate tenants about these changes and their rights. She urged additional focus inspections on 'slum lords' and that the City inform the tenants of their rights and to improve conditions within the City.

Mayor Cooper closed the public hearing at 9:23 p.m.

Mayor Cooper suggested that all units be charged the fees. In regards to landlords, she indicated that the fee is the cost of doing business. She expressed concerns for tenants living in intolerable conditions.

Council Member Dowling moved the staff recommendation with the amendment of charging each landlord \$5 per unit across the board. Council Member Rodriquez agreed and seconded the motion.

Council Member Ward said it appears that the \$5 charge might be more than enough if it is applied across the board. Since the point is not to make money off the program, perhaps the fee could be less than the \$5.

Director of Community and Economic Development Ehrental said even charging every landlord in the City of Hayward would not meet the total cost of the program. The fees pay only fifty percent of the cost of the program at this point.

City Manager Armas said that the objective is to make sure the housing stock is in good condition and safe. He also confirmed that the group would be reconvened next February to review the program.

Council Member Rodriquez added that there should be an understanding among COR members to stress the tenants responsibilities as well as rights. She then discussed her own previous experiences with tenants.

Mayor Cooper asked about the charges involved in the program.



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Council Member Henson said he still had concerns, but hoped the staff would have sufficient data to go after those landlords who have a history of non-compliance and tackle the slum landlords since tenants have appropriate rights for livable conditions. He stressed the position of not having landlords retaliating due to the complaints. The City of Hayward should provide some relief to those who have long histories of compliance and maintenance of their units. He stressed the safety factors of the program.

Council Member Jimenez asked about Mr. May's position of holding over the ordinance until "more work could be done" on it.

Council Member Hilson discussed the chronic violators who have not done a very good job. He believed units in the City have improved due to this ordinance. He noted that the increased violation penalties would eventually reach the landlords. He expressed his concern about inspecting more than one unit in a building after a complaint. He suggested reviewing the common areas in that development. He approved of the annual review to determine the results of data. He said he was fully supportive of this ordinance.

It was moved by Council Member Dowling, seconded by Council Member Rodriguez, and carried, with Council Member Jimenez abstaining to adopt and introduce the following:

Resolution 03-041, "Resolution Finding that the Repeal of the City's Existing Residential Rental Inspection Ordinance and the Enactment of a New Residential Rental Inspection Ordinance is Exempt from Review Under the California Environmental Quality Act"

Ordinance 03-__, "Ordinance Repealing Article 5 of Chapter 9 of the Hayward Municipal Code and Enacting a New Ordinance for the Residential Rental Inspection Program"

Mayor Cooper called for a five-minute recess.

LEGISLATIVE BUSINESS

4. I-880/92 Interchange Project (*continued from 3/25/03*)

Staff report submitted by City Manager Armas, dated April 1, 2003, was filed.

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City Manager Armas asked Council to endorse Alternative "H" in order to progress forward with respect to the project. A record of decision should be forthcoming this summer. He noted that construction would take three to four years to completion.

Council Member Dowling indicated that at the previous meeting a speaker suggested that the former community committee be reinstated to monitor the impact on neighborhoods within the City of Hayward.

Council Member Jimenez state that considering that the number of homes to be removed has decreased, the project should moved forward.

City Manager Armas said the City does not want the dollars to go away as has been suggested for other projects in the area.

Council Member Henson wanted to insure that the MTC staff is developing a strategy to avoid the use of this alternative funding.

City Manager Armas said it is possible that this will occur. City staff is meeting with staff from other agencies to assure that the funding remains.

Council Member Henson discussed the 'choke point', which places stress on the City's streets. He asked whether there is a mechanism of financial relief that this extra traffic places on City streets.

Council Member Rodriquez discussed neighborhood concerns regarding the houses on Peterman condemned by Caltrans for this project.

City Manager Armas affirmed that at completion of the contractual obligations for the project, landscaping will be planted and maintained on the condemned property while the building is in progress. He said staff would emphasize to Caltrans that maintenance of these homes be a high priority, and City staff will monitor the units. He also suggested there might be opportunities to do things to alleviate the stress on the neighbors to this project.

Council Member Ward asked about mitigation monitoring and suggested that the City take the responsibility to confirm that residents are not adversely impacted.

Council Member Hilson questioned whether this is the most expedient process possible, a time frame less than six years.

City Manager Armas suggested that there might be a 3-year construction time frame. He said the project might be finished by 2008 instead of 2009, if the acquisition time is shortened. He said they would work with Caltrans to tighten up the time frame.



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Council Member Hilson said the delay between two projects is unfortunate. It would be best if the project was not needed but he recognized that it was.

Mayor Cooper opened the public hearing at 10:09 p.m.

Barbara Swarr reported on a recent sale of a home on Peterman. She emphasized that she was glad for the homeowners who have now established a value on their homes at \$389,000. She expressed concern for the ones who are left. She urged that there be consideration on mitigation.

Roy Gordon commented against the acquisition of homes on Peterman and the alternative. He asserted that this proposal would not benefit the city. He commented that the funds would not be guaranteed to be available. He stated that the best alternative is still the "No Build" Alternative. He urged that this item be held off until the EIR is finalized.

Bob Billmire, past member of the 92-880 Interchange committee and a member of Neighborhoods Against Freeway Intrusion (NAFI), spoke in favor of the action. He commented on the "choke point" constraints that were previously alluded to. He mentioned a speaker to the Alliance of Business who said, truck traffic in the 880 corridor is horrendous.

Eileen McAvoy said this plan is doing big harm and gross damage to the neighborhood and cost to the City. She hated to see the blight that this construction will cost to the area. Funding might not be available by the State to complete the project.

Bob McDonald said he keeps thinking about a Caltrans mantra, which must be "Years of traffic disruption, noise of construction, and neighborhood destruction." He asked the City to encourage Caltrans to speed up the construction. He asked whether the plan is to buy the houses immediately and rent the houses, and whether there will be adequate protection for the neighborhood. He emphasized that the rental program be enforced on these homes.

Barbara Halliday reiterated the twelve years of work by the community, City Council, staff and Caltrans to come up with this plan. She insisted that the EIR should be completed. She said Caltrans needs to do it. The State is arguing they can no longer afford to mitigate the problems.

Nino Quintana discussed the poorly planned and design flaws of the interchange. He said it is not well-thought out and really not going to accomplish a thing. The State is spending \$400-million for nothing. It will also create havoc to this neighborhood.

Al Reynolds commented on the potential associated with this project. He appreciated the work done by the CAC on this plan. He commented on what will be facing the neighborhood.

Mayor Cooper closed the public hearing at 10:34 p.m.

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Mayor Cooper stated that Alternative H is the best that the City of Hayward has been offered and fair to the neighborhoods.

Council Member Hilson commented that some good points have been raised. He noted that if the construction is expedited, this process should help with the anticipated problems in the neighborhood. He added that this project would help traffic connections within the City at this juncture. He then moved the staff recommendation that Council Member Dowling seconded.

Council Member Henson commented that part of the process was the fear of losing money, but it is also a regional project, and that Caltrans could appropriate the funding for other projects in different areas. He stated that it is suitable to move this item forward. He agreed with Council Member Hilson that it is time to expedite the process. He hoped that the twelve owners understand that this is a regional project.

Council Member Rodriquez said it was a tough decision so she understood why many of her neighbors are reluctant to support this issue, however, she was elected to make tough decisions. She thanked a number of committee members: Mr. McDonald and his wife, Mr. Reynolds, Ruth Jenkins, Bob Billmire and Ken Price. She noted their dedication to the neighborhood and in fighting to make this the best project it can be. She said it was with a great deal of reluctance that she would support this motion because it is for the best for the whole.

Council Member Jimenez emphasized that Hayward should monitor the project. This project will relieve many of the residents both in Hayward and in surrounding communities, as well as create hundreds of jobs. He would support the motion.

Council Member Dowling asked for a friendly amendment to the motion to ask staff to reconvene the citizen's committee to oversee the project.

Council Member Hilson said he would not accept the friendly amendment since the City has a number of monitoring mechanisms. He noted that in the future there is always that option.

Council Member Rodriquez agreed with Mr. Hilson and suggested that because they were convened for more than 11 years they might be tired. However, she suggested the City poll the members of the committee to see if they would want to continue.

It was moved by Council Member Hilson, seconded by Council Member Dowling, and unanimously carried to adopt the following:

Resolution 03-042, "Resolution of the City Council of the City of Hayward, California, in support of Alternate H and Early Acquisition of Real Property for the I-880/SR 92 Interchange Reconstruction Project"



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COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Cooper adjourned the meeting at 10:47 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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